

The 23rd August, 1973

No. 8118-4Lab-73/29670.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Bhiwani Textile Mills, Bhiwani

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 65 of 1969

between
THE WORKMEN AND THE MANAGEMENT OF MESSRS BHIWANI TEXTILE MILLS,
BHIWANI

Present—

Shri Sagar Ram Gupta for the workmen.

Shri B.R. Ghai and Shri Nathu Mal Jain, for the management.

AWARD

Feeling aggrieved by the recommendation of the Second Wage Board for Cotton Textile Industry, as accepted by the Government of India, the workers of the Bhiwani Textile Mills, Bhiwani, raised a number of demands through their respective unions,—*vide* demand notice Ex. M.W. 2/1 on record which were not acceded to by the management. This gave rise to an industrial dispute. The matter was taken up before the Conciliation Officer and on receipt of his failure report, the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub section (1) of Section 10 of the Industrial Disputes Act, 1947, referred some of the demands for adjudication to this Tribunal,—*vide* order No. ID/HSR/29526, dated 4th November, 1969 with the following terms of reference.

Whether the workers are entitled to any more relief in the matter of basic wage ; D.A. including linkage with Cost of Living Index number and gratuity scheme than the recommendations of the Second Wage Board for Cotton Textile Industry as accepted by the Government of India ? If so, with what details and from which date ?

Usual notices were given to the parties and they put in their respective written statements. The demands, the subject matter of the reference, were reiterated on behalf of the workmen of the Mills in three separate claim statements filed in the case. It was contended that the respondent concern was a very prosperous and stable industry of over 40 years standing which had been expanding very rapidly over the past 25 years and had become the biggest composite Cotton Textile Mills in Haryana State. It was further alleged that the policy of the management had all along been hostile to the workers and the wage level existing in the Mills was much below the minimum subsistence level. With regard to the recommendations of the Second Wage Board it was urged that the same were hopelessly inadequate and had failed to narrow down the disparities existing in different centres.

The management contested the above demands of the workmen on a number of grounds pleading *inter-alia* that it had done its utmost to meet the demands of the workmen and on account of continuous loss incurred from 1966 onwards it was not in a position to meet any further demands.

My learned predecessor framed the following 7 issues from the pleadings of the parties in the case :—

- (1) Whether the dispute with regard to the gratuity, D.A., and basic wage were settled by an settlement as referred in pages 1 to 5 of the written statement ?
- (2) Whether the demand with regard to the fixation of scales can not be adjudicated upon because the workmen have not indicated the minimum and maximum scales desired by them ?
- (3) Whether the demand with regard to D.A. was not made in the letter of demands sent by the union and therefore this demand too can not be adjudicated upon ?
- (4) Whether the demands of the Vastra Udyog Mazdoor Sangh that the consolidated basic wage should have arrived at by adding 10 per cent plus Rs 8 on 3/4 of the D.A. can not be adjudicated upon because it is for more than the consolidated demands made in the letter of demands ?
- (5) Whether the demands that the basic wage of each category of the workmen should be revised can not be considered because no method has been subsisted for the particular categories of the workmen and therefore this demand is vague ?

- (6) Whether the demand Rs 40 per mensem is fixed as minimum basic wage conflict with the demands of the Vastra Udyog Mazdoor Sangh by which it was sought that Rs 30 of D.A. should be consolidated in basic wage and if so, what is its effect ?
- (7) Whether the demand for 95 per cent neutralisation is also vague and can not be considered because no formula and particulars have been given as to how the said 95 per cent neutralisation is to be calculated ?

Before any evidence was led by the parties on the above issues the management brought on record the settlement, dated 7th December, 1970, Ex. M.W.2/2 and made an application on 18th December, 1970 (Ex. M.W.2/3) signed by Sarvshri Makhan Singh, Man Singh, Rohtas Kumar, Jagmal Singh, and Bal Krishan Gupta representative of the Mazdoor Sabha, Textile Mazdoor Sangh and Vastra Udyog Mazdoor Sangh who had given the demand notice leading to the reference and it was requested that the award be made in terms of the said settlement. The validity and the fairness of the settlement has however been challenged by Shri Sagar Ram Gupta, General Secretary of the Textile Mazdoor Sangh giving rise to the following two issues :—

- (8) Whether there has been a settlement of all the disputes between the management and the workmen on 7th December, 1970 ? If so, with what effect ?
- (9) If issue No. 8 is proved whether the said settlement is illegal, malafide and unfair and therefore not binding upon the workmen ?

The parties have been heard on the above two issues which have been considered as preliminary issues. The management has examined five witnesses including Shri Kailash Saroop, Labour Officer, M/s Mohan Spinning Mills, Rohtak M.W.1, Shri Bal Krishan Gupta, President Vastra Udyog Sangh, Bhiwani M.W. 2, Shri Makhan Singh, General Secretary, Mazdoor Sabha, Bhiwani M.W. 3, Shri Rohtas Kumar, President, Textile Mazdoor Sangh, Bhiwani M.W. 4, Shri R.J. Ambwani, Labour-cum-Conciliation Officer, Bhiwani, M.W. 5. The management has further placed reliance upon documentary evidence consisting of a copy of the settlement dated 25th August, 1969 between the management of M/s Mohan Spinning Mills, Rohtak, and its workmen Ex. M.W.1/1, demand notice dated 4th July, 1969 served upon the said management by its workmen Ex. M.W.1/2, the demand notice which forms part of the present reference Ex. M.W. 2/1, the settlement dated 7th December, 1970 (in dispute), Ex. M.W. 2/2 with its annexure the settlement dated 8th March, 1970 between the management of M/s T. I. T. Mills, Bhiwani and its workmen Ex. M.W. 2/4, application filed in the Court for making the award in terms of the settlement Ex. M.W. 2/3 settlement dated 20th September, 1969 between the management of M/s The Hissar Textile Mills, Hissar and its workmen, Ex. M.W. 5/1, settlement dated 30th November, 1969 between the management of Messrs Gopi Chand Textile Mills, Sirsa, and its workmen, Ex. M.W.5/2.

On the other hand, the workmen represented by Shri Sagar Ram Gupta who have challenged the settlement pleaded by the management have examined six witnesses, namely, Shri Bhanwar Singh who claims to be President of the Textile Mills Mazdoor Sangh W.W.1, Shri Ram Singh Chaudhry an employee of the Delhi Cloth and General Mills, Bhiwani W.W. 2, Shri Om Parkash, an employee of M/s Birla Cotton Weaving and Spinning Mills, Delhi W.W. 3, Shri Ram Phal an employee of M/s Hissar Textile Mills, Hissar W.W. 4, Shri Bhim Sain Parbakar, President, Dalmia Dadri Cement Factory Men's Union, Charkhi Dadri W.W. 5, Shri Sagar Ram Gupta, General Secretary, Textile Mazdoor Sangh W.W. 6. They have further brought on record a number of documents including letter dated 4th November, 1969 from the Secretary to Government, Haryana, Labour and Employment Departments addressed to the Unions (Ex. W 1) intimating that some of the demands raised through the demand notice dated 24th September, 1969 had been referred for adjudication while others had been rejected, photostatic copy of the notice Exhibited on the notice board at the gate of the mills (Ex. W-2), letter dated 19th May, 1970 addressed by Shri Bhanwar Singh, President, Textile Mazdoor Sangh to the Labour-Cum-Conciliation officer protesting against the proposed settlement between the management and the other union leaders (Ex. W-3), another, letter dated 16th October, 1970 addressed to the management to the same effect Ex. W-4, letter dated 15th January, 1970 by the General Secretary, Indian National Trade Union Congress, Haryana, addressed to Shri C.B. Kaushik member Executive Committee, INTUC, Haryana, Gurgaon requesting him to hold the annual election of the Textile Mazdoor Sangh, Lohar Bazar, Bhiwani (Ex. W-5), letter dated 26th January, 1970 by Shri C.B. Kaushik for publication intimating the result of the elections held by him (Ex. W-6), settlement dated 2nd November, 1970, between the management of M/s Hissar Textile Mills, Hissar and its workmen Ex. W.W. 4/1, the charter of demands of the workers in Cement Industry Ex. W.W. 5/1, booklet showing the case of the Cement workers Ex. W.W. 5/2, statement showing the wage scheme in Dalmia Dadri Cement Factory, Charkhi Dadri Ex. W.W. 5/3, Wage structure in the said cement concern Ex. W.W. 5/4, the recommendation of the Second Central Wage Board for Cement Industry Ex. W.W. 5/5, statement showing minimum wage and D.A. in Cotton Mills in the Country, for the standard month of 26 working days Ex. W.W. 6/1, Statement showing gratuity scheme applicable to the workmen in Delhi Cloth Mills and the Swantra Bharat Mills Ex. W.W. 6/2, order dated 20th August, 1971 of the Conciliation Officer, Bhiwani declaring 9 workmen of the Textile Mazdoor Sangh (INTUC), Lohar Bazar, Bhiwani as protected workmen Ex. W.W. 6/3.

The case has been well argued on both sides and I have given my best consideration to the facts on record.

The demand notice leading to the present reference Ex. M.W. 2/1 on record was admittedly given by Shri Rohtas Kumar, President, Textile Mazdoor Sangh, Bhiwani, Shri Man Singh, Secretary, Mazdoor Sabha Bhiwani and

Shri Bal Krishan, General Secretary Vastra Udyog Mazdoor Sangh Bhiwani. Both Shri Rohtas Kumar and Bal Krishan have come into the witness box and have admitted the settlement in dispute. Shri Makhan Singh, General Secretary of the Mazdoor Sabha Bhiwani coming into the witness box as M.W. 3 has also admitted the said settlement. As stated at the bar these were the only three unions of the workers of this Mills in existence when the demand notice dated 24th September, 1969 was given and for that matter the settlement in dispute was arrived at between the management and the workers. No workers belonging to the said three unions have come into the witness box to question the legality or fairness of the settlement.

The contention raised by Shri Sagar Ram Gupta is that as a result of the fresh elections held on 26th January, 1970 Shri Rohtas Kumar had ceased to be an office bearer of the Textile Mazdoor Sangh Bhiwani and he was therefore not competent to enter into any settlement with the management on behalf of the members of the said union nor had they ever authorised him to enter into any such settlement. He has further argued that protests in writing had been made by the members of this union, through their President Shri Bhanwar Singh and the management as well as the Labour-Cum-Conciliation Officer Bhiwani had been requested not to proceed with the negotiations for the settlement which was not fair to and had caused resentment amongst the workmen in the Mills. Still another argument has been advanced by him that the settlement in question was not fair and reasonable and the members of his union were not bound by the same. The learned representative of the management has strived hard to refute the above contentions.

So far as the question of the elections of the union goes it is common knowledge that there is always a procedure prescribed for holding such elections. That procedure has not been explained in the instant case. The constitution of the union has not been brought on record nor any other written document to show as to how when and in what manner the elections of the union could be held. The main evidence led in the case on this point consists of two documents, letter dated 15th January, 1970 written by Shri G.C. Joshi, General Secretary, Indian National Trade Union Congress, Haryana, Yamuna Nagar Ex. W-5, requesting Shri C.B. Kaushik member of the Executive Committee INTUC (Haryana) Gurgaon to hold the elections of the Textile Mazdoor Sangh Lohar Bazar Bhiwani, on 26th January, 1970, and letter dated 26th January, 1970 of Shri C.B. Kaushik Ex. W-6 which in fact purports to be a "news for publication" stating the names of Shri Bhanwar Singh and others as the newly elected officer bearer of the said union for the year 1970-71. No evidence has been led to show that the Executive Committee or the General Body of this union itself had taken any decision to hold the elections or that it had made any representation to the Indian National Trade Union Congress Haryana, for deputing any person for holding the elections. Shri G.C. Joshi has not come into the witness box to state in what circumstances and on what authority he had asked Shri C.B. Kaushik to hold the elections. Shri C.B. Kaushik has also not come forward to state as to what was the procedure adopted by him for holding the said elections on 26th January, 1970 and whether the date fixed for holding the general special meeting of the union for this purpose had been duly notified to the members of the union. After all, each and every member of the union was entitled to get reasonable notice of the date of the meeting so as to enable him to exercise the right of vote for choosing the office bearers of the union. The proceedings of the meeting said to have been held under the Chairmanship of Shri C.B. Kaushik have not been produced. His letter Ex. W-6 referred to above only indicates that he had sent this news for publication, where and in what manner it has not been disclosed nor is this evidence on record to show that this news was actually got published.

The evidence to support the plea of the contesting workmen that as a result of the fresh elections held on 26th January, 1970 Shri Rohtas Kumar had been removed from the Presidentship of the union is thus lacking in the case. My attention has further been drawn to the order dated 20th August, 1971 of the Conciliation Officer Bhiwani Ex. W.W. 6/3 to show that 9 workers belonging to the group led by Shri Bhanwar Singh had been declared as protected workmen. I am afraid this document even is not enough to advance their claim. On the face of it, it does not show that Shri Rohtas Kumar had any knowledge of the enquiry held by the Conciliation Officer and that the said order had been passed after giving him an opportunity to file his objections. There is no gain saying the fact that there exist two factions in the Textile Mazdoor Sangh Bhiwani, one led by Shri Rohtas Kumar and the other by Shri Bhanwar Singh. But the membership record has not been produced in the case to determine conclusively as to which was the majority group on the relevant date i.e. 20th August, 1971 when the said order was passed by the Conciliation Officer. Moreover, the crucial date for the determination of the matter in issue is 7th December, 1970 when the settlement in question was brought about between the parties. The membership record as it existed on that date has also not been proved. So, taking into consideration all the facts discussed above together it cannot be held with any amount of certainty that Shri Rohtas Kumar had no representative character as President of the Textile Mazdoor Sangh Bhiwani on 7th December, 1970 when he entered into the settlement with the management along with the representatives of the other two unions named above. He still claims to be the President of the union. Shri Bhanwar Singh coming into the witness box as W.W. 1 has admitted in so many words that Shri Rohtas Kumar continued working as President of the Textile Mazdoor Sangh even after he (Shri Bhanwar Singh) had been elected President on 26th January, 1970 and that he (Shri Rohtas Kumar) had also been collecting the membership subscriptions from the workers of the Textile Mazdoor Sangh and he was still doing so. According to him a civil suit had been instituted against Shri Rohtas Kumar in the Court of the Sub-Judge at Bhiwani but the learned Sub-Judge had declined the request for Issuing ad interim injunction restraining Shri Rohtas Kumar from acting as President of this union. It has been stated at the Bar that that suit was got dismissed in default and no proceedings have been taken for the restoration of the same.

In view of the above I have no difficulty whatever in concluding that there had been a settlement of the disputes between the management and the representatives of all the three unions of the workers of the Mills on 7th December, 1970 as contended by the management and admitted by the representatives of the unions who are signatories to the memorandum of settlement.

The question that next arises for determination in the case is whether the said settlement was illegal, mala-fide and unfair and not a just and reasonable settlement of the disputes between the parties. The burden of this issue was upon the contesting workmen and on a close scrutiny of the evidence produced on both sides, I am constrained to hold that they have simply failed to discharge this burden. The settlement in question was arrived at between the management and the representatives of all the three unions of the workers in the Mills existing at that time. It was brought about in the presence of the Labour-Cum-Conciliation Bhiwani and he had attested the same. The signatories to the settlement are the very office bearers of the three unions who had given the demand notice leading to the present reference. They have neither disputed the factum nor the fairness of the settlement. There is no suggestion that any undue influence, fraud or mis-representation had been practised by the management in arriving at the settlement with them or that it was not the result of their free and independent will as the representatives of the workmen in the Mills. No adverse inference can reasonably be drawn against the management even from the perusal of the memorandum of settlement and the terms thereof which may usefully be reproduced as under :—

TERMS OF SETTLEMENT

"The parties agree to para 1 to 8 of the terms of settlement dated 8th March, 1970 between the management of the Technological Institute of Textiles, Bhiwani and its workmen copy enclosed.

It is further agreed that the workmen on the muster roll in the month of November, 1970 will only be entitled to the difference of the dues as per the above said agreement and the amount already paid to them in the year 1969 as per recommendation of the Wage Board. Those who have already left shall not be entitled to the same.

(2) The workmen, who had been entitled and paid gratuity after 1st January, 1970 on the old basis shall be paid difference of the gratuity payable under this agreement provided they may apply in writing within one month of the date of this agreement. The date of receipt of such application by the management will be taken as the date and not the date of posting such application. This settlement will remain in operation upto the end of December, 1973.

The workers assure good work and efficiency and cooperation.

A copy of the agreement will be filed with the Industrial Tribunal, Haryana, who shall give his award in terms of the agreement as above"

Paras 1 to 8 of the terms of settlement dated 8th March, 1970 between the management of Messrs Technological Institute of Textiles, Bhiwani, and its workmen read as under :—

"1. Narrowing down the disparity in Dearness Allowance

It is agreed that increase in D.A. shall be given as under :—

From 1st January, 1970 to 31st December, 1972 . . . Rs 13 (Thirteen) per month

From 1st January, 1973 . . . Rs 15 (Fifteen) per month

There shall be no claim for the year 1969

2. Linking of Dearness Allowance with Consumer Price Index

It will continue as at present

3. Merger of D.A. with Basic Wage

The basic wage as it stood before the recommendation of the first Wage Board plus increase of Rs 8 granted by that Board as per para 106 of the report plus D.A. equal to 3/4th of the average D.A. of the first six months of 1959 (i.e., Rs 35 (Thirty-five) shall be treated as basic wage from 1st January, 1970. Thus the revised basic wage structure from 1st January, 1970 will be Rs 26 plus Rs 8 plus Rs 35, Total Rs 69 and the same method will be applied to all other categories of workmen for all purposes except gratuity

4. Annual Increment

The operatives who are not on time scale shall be allowed annual increment as under :—

1 per cent of the revised basic wage or minimum 75 paise per year of service for 5 years.

The workmen shall not claim any increment for the year 1969. From January, 1970 2 per cent of the revised basic wage of Rs 1.50 per month minimum

Additional 1 per cent with minimum of 75 paise for next each year, i.e., from 1st January, 1971, 1st January, 1972 and 1st January, 1973.

Eligibility.—The workmen who have completed 240 days work in the year 1968 as provided under section 14 of the Payment of Bonus Act, 1965 will be entitled to one increment of 1 per cent or 75 paise minimum from 1st January, 1970 and those who have completed 200 working days during the year 1969 shall get another 1 per cent or minimum 75 paise from 1st January, 1970 and for the next coming years he will get the annual increment provided he completes 240 working days as provided under section 14 of the Payment of Bonus Act. The days on which a badli workman will not be provided work by the management and returned will be counted as working days to compute 200/240 days. The days for which a workman shall get sickness benefit from Employees State Insurance Corporation shall also be counted as working days to compute 200/240 days for the purpose.

5. Gratuity

The amount of gratuity payable to all classes of employees entitled to the same under the existing scheme and basis shall be increased by 40 per cent on or after 1st January, 1970.

6. Subsistence allowance for the period of suspension during enquiry

A provision shall be made in the Standing Orders.

7. Representation during Enquiry

The worker during enquiry shall be represented by a co-worker and on his application the Enquiry Officer may allow an office-bearer of the Union at his discretion.

8. The wages for working on festival holidays is covered by the statutory provisions of the Punjab Industrial Establishment (National and Festival Holidays, Casual and Sick Leave) Act, 1965 and hence not pressed.

The parties will submit a copy of the agreement to the Industrial Tribunal who shall give his award in terms of the agreement as above.

The learned representative of the contesting workmen has vehemently argued that it was not a just and reasonable settlement taking into consideration the conditions of service and the wage level of the workers in the Mills at other places and the status and the position of the respondent Mills itself which had been expanding very rapidly over the past 25 years. My attention has been drawn to the statements of W.W. 2 Shri Ram Singh Chaudhary an employee of Delhi Cloth Mills, Delhi, W.W. 3 Shri Om Parkash of the Birla Cotton Weaving and Spinning Mills, Delhi, W.W. 4, Shri Bhim Sain Parbhakar, President, Dalmia Dadri Cement Factory Men's Union Charkhi Dadri and some documents especially the statements, Ex. W.W. 5/3, W.W. 5/4 showing the wage structure in Dalmia Dadri Cement Factory, Charkhi Dadri, Ex. W.W. 5/5 the recommendations of the Second Central Wage Board for Cement Industry, Ex. W.W. 6/1 statement showing minimum wages and dearness allowance in the Cotton Mills for a standard month of 26 working days at Bombay, Ahmedabad, Baroda, Indore, Tamil Nadu, Kanpur, West Bengal, Delhi and Bhavnagar, Ex. W.W. 6/2 gratuity scheme applicable to workmen in Delhi Cloth Mills and the Swatantra Bharat Mills. The conditions of service of the Textile Workers at Delhi and other distant places mentioned above can not be held to be similar to those of the workers in the respondent Mills at Bhiwani. The wage structure of the workers in Dalmia Dadri Cement Ltd., Charkhi Dadri cannot also be taken into consideration to question the fairness of the settlement in dispute for the simple and obvious reasons that it is an altogether different industry with different working conditions of the labour engaged therein. These instances cited on behalf of the contesting workmen have therefore no relevancy to the facts of the instant case. The mere proximity of Charkhi Dadri to Bhiwani (the distance between two places being about 18 miles) cannot be considered as reasonable ground to apply the wage structure in that industry to the workers of the respondent Mills. On the other hand, the instances of the Textile Mills at Rohtak, Hissar, Sirsa proved in the case by the management as per the statement of M.W. 1 Shri Kailash Saroop, Labour Officer, Mohan Spinning Mills, Rohtak, and M.W. 6, Shri R. J. Ambwani read with the settlements, Ex. M.W. 1/2, Ex. M.W. 5/1, Ex. M.W. 5/2 have a greater relevancy to the facts of the present case as all these instances relate to the workers engaged in the Textile Industry like the respondent Mills. Shri R. J. Ambwani, M.W. 5 had in fact been instrumental in bringing about the settlements between the management and the workers of all the Textile Mills at Hissar, Sirsa and Bhiwani including the T.I.T. Mills and the respondent Mills. According to his reports regarding the implementation of the above settlement in all the Mills had been received by him. As urged on behalf of the management intimation of the settlement had been given to the higher authorities as required by law.

So far the reasons aforesaid the settlement in question cannot be held to be illegal, *mala fide* or unfair by any stretch of imagination. The terms and conditions of the settlement in dispute are similar to those of the settlements arrived at between the management and the workers of the Textile Mills in the adjoining places, Rohtak, Sirsa and Hissar and having been based upon the recommendations of the Second Wage Board as accepted by the Government of India, they have to be taken as just and reasonable. There is yet another note worthy aspect of the case which deserves consideration here. As stated by Shri R. J. Ambwani, M.W. 5 the settlement in all the Textile Mills mentioned above had been implemented and the workers of the T.I.T. and B.T.M. Mills at Bhiwani

had received benefits higher than the workers of the Mills at Hissar and Sirsa. There is no denying the fact that the contesting workmen had derived benefits accruing from the settlement in question and that being so they cannot now be heard to say, in the context of the facts established in the case as discussed above, that the settlement was not just and reasonable.

No other point worth consideration has been urged and that disposes of the entire case. Issues Nos. 1 and 2 are decided in favour of the management and against the workmen and it is held that the disputes, the subject-matter of the present reference, stand settled, as per terms and conditions given in the memorandum of settlement dated 7th December, 1970 stated above, and the settlement being just and reasonable and not proved to be illegal, mala fide or unfair is binding upon the parties including the contesting workmen. The award is made accordingly. In the circumstances there shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 6th August, 1973.

No. 925, dated the 6th August, 1973

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana
Faridabad

Dated the 6th August, 1973.

No. 8403-4Lab-73/29672.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Ram Sarup Dhani Ram, 6, Industrial Area, N.I.T., Faridabad :—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 77 of 1972

between

Shri Mansa Ram workman and the management of M/s Ram Sarup Dhani Ram, 6, Industrial Area, N. I. T., Faridabad

Present :

Shri Darshan Singh for the workman.

Shri R. C. Sharma for the management

AWARD

Shri Mansa Ram, concerned workman, was in the service of M/s Ram Sarup Dhani Ram, 6, Industrial Area, N.I.T., Faridabad. The management terminated his services with effect from 18th June, 1972. He raised a demand for reinstatement which was not accepted by the management. This gave rise to an industrial dispute.

The Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the above dispute to this Tribunal vide order No. ID/FD/72/40588, dated 23rd November, 1972 with the following terms of reference :—

Whether the termination of services of Shri Mansa Ram was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties. The workman reiterated his claim for reinstatement and back wages as earlier raised the demand notice dated 19th June, 1972 giving rise to the present reference contending that his services had been illegally terminated without any notice or charge sheet. The management repudiated his claim on the ground that he was holding a responsible post to supervise the work of others but he was very irregular in attendance and was in the habit of submitting leave application on false grounds. It was further alleged that he had been carrying his own business and was earning a lot.

From the pleading of the parties the only issue that arose for determination in the case was as per the terms of reference stated above. There was a suggestion for an amicable settlement outside the Court which, however, did not materialise and the management was directed to produce evidence in support of the issue involved in the case but no evidence was produced on the date fixed. On the request of the management the case was adjourned for evidence subject to the payment of Rs. 25/- as costs. Costs have not been paid. The management has further chosen not to appear in the proceedings and produce evidence to contest the claim of the workman. The authorised representative of the management has stated that in spite of his instructions the management has not cared to produce evidence and he has therefore no instructions to proceed with the case. Evidence of the workman has been recorded.

I have heard the learned representative of the workman and considered the facts on record. According to the statement on oath of the workman himself he had started service with the management as a Mistry at Rs. 270/- on 1st September, 1969 but his services were terminated without any justification, notice or charge sheet with effect from 18th June, 1972. He has further stated that he had approached the management for reinstatement as his services had been dispensed with without any fault but the management did not accept his demand. He then gave the demand notice, dated 19th June, 1972, Exhibit W-1 but the management did not show any willingness in the conciliation proceedings to take him back on duty and hence this reference. He has still further refuted the contention of the management that he had been irregular in attendance or that he had been running independent businesses. On the other hand he has stated that he has all along been out of job.

There is apparently no reason to disbelieve the statement on oath of the workman especially when the management has elected not to appear and contest his claim by bringing on record cogent and convincing evidence to support the above pleas raised in the written statement. The issue involved is, therefore, found in favour of the workman and he is held entitled to reinstatement with all back wages. The award is made accordingly. No order as to costs.

Dated the 8th August, 1973.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 982, dated the 10th August, 1973

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 8th August, 1973

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 8402-4 Lab-73/29676.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s D. S. Diesel Engineering, 58-B, Industrial Area, Faridabad :—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 41 of 1973

between

SHRI AMRIT LAL WORKMAN AND THE MANAGEMENT OF M/s D. S. DIESEL
ENGINEERS, 58-B, INDUSTRIAL AREA, FARIDABAD

Present :

Shri Darshan Singh for the workman.

Shri R. C. Sharma for the management.

AWARD

Shri Amrit Lal concerned workman was in the service of M/s D. S. Diesel Engineers, 58-B, Industrial Area, Faridabad, as a helper on a salary of Rs 105.50 per month. The management terminated his services with effect from 1st December, 1972. He raised a demand for reinstatement but without any satisfactory response from the management. This gave rise to an industrial dispute.

The Governor of Haryana, on receipt of the failure report from the Conciliation Officer, referred the above dispute for adjudication to this Tribunal,—vide order No. ID/FD/73/13473, dated 11th April, 1973, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, with the following terms of reference :—

Whether the termination of services of Shri Amrit Lal was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties who have arrived at an amicable settlement outside the Court. According to the statement on oath made by Shri R. C. Sharma, authorised representative of the management Shri Amrit Lal had approached the management for settlement which was arrived at, as per terms given in the memorandum of settlement, dated 1st June, 1973, Exhibit M-1. He has further stated that Shri Amrit Lal had received his dues in full giving up his right of reinstatement or re-employment and has addressed the letter Exhibit M-2 to this Tribunal to the same effect. Shri Darshan Singh, authorised representative of the workman has no instruction from him to dispute the above settlement and proceed with the reference.

In view of the above, no further proceedings are called for in the case. No dispute award is made in terms of the above settlement. There shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated the 9th August, 1973.

No. 983, dated 10th August, 1973.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA.

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated the 9th August, 1973.

No. 8417-4Lab-73/29678.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Saraswati Sugar Mills, Yamuna Nagar.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA FARIDABAD

Reference No. 58 of 1971

between

THE WORKMEN AND THE MANAGEMENT OF M/S SARASWATI SUGAR MILLS,
YAMUNA NAGAR

Present :—Shri Manohar Lal, President, Saraswati Sugar Mills Mazdoor Union.

Shri Roshan Lal Gupta and Shri M. M. Ahuja, for the management.

AWARD

The workmen of M/s Saraswati Sugar Mills, Yamuna Nagar had raised certain demands for their being up graded, permanency and grant of annual increment which were not acceded to by the management. This gave rise to an industrial dispute which was referred for adjudication to this Tribunal by

the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947,—vide order No. ID/16606, dated 31st May, 1973 with the following terms of reference.

- (1) Whether the workers whose names are mentioned in Annexure I who have reached the maximum of their grades should be allowed to continue to receive the annual increment or their grades be upgraded? If so, with what details?
- (2) Whether the workers who are doing the work of higher grade should be upgraded forthwith?
- (3) Whether the workers whose names are mentioned in Annexure II should be made permanent? If so, with what details?

Usual notices were given to the parties and the management contested the above demand of the workmen. It is, however, not necessary to go into the merits of the case as an amicable settlement has been arrived at between the parties as per the terms and conditions given in the memorandum of settlement dated 30th April, 1973 Ex. W-1. Statements of the parties concerned have been recorded. The award is, therefore, made as per the terms and conditions of the above settlement which shall form part of the award. In the circumstances, there shall be no order as to costs.

Dated 31st July, 1973.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 896, dated 1st August, 1973

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated 31st July, 1973.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

MEMORANDUM OF SETTLEMENT

(See Rule 58 of the Industrial Disputes Punjab Rules, 1958)

Name of the Parties :—

Employers

The Saraswati Sugar Mills,
Yamunanagar.

Employees

Saraswati Sugar Mills Mazdoor Union (Regd.)
Yamunanagar.

Representing Employers :

- (1) Shri Jai Krishana,
General Manager,
Saraswati Sugar Mills,
Yamunanagar.
- (2) Shri M. M. Ahuja,
Assistant Manager,
Saraswati Sugar Mills,
Yamunanagar.

Representing Workmen :

- (1) Shri Manohar Lal,
President,
Saraswati Sugar Mills Mazdoor Union (Regd.),
Yamunanagar.
- (2) Shri Sat Pal,
General Secretary,
Saraswati Sugar Mills Mazdoor Union (Regd.),
Yamunanagar.
- (3) Shri Madan Lal.
- (4) Shri Mossadi Lal.
- (5) Shri Baldev Raj.

SHORT RECITAL OF THE CASE

Vide demand notice dated 25th May, 1970 the Saraswati Sugar Mills Mazdoor Union (Regd.), Yamunanagar had raised an industrial dispute which was referred to the Industrial Tribunal, Haryana, Faridabad, for adjudication and which is pending as reference No. 53 of 1971.

TERMS OF SETTLEMENT

Demand Nos. 1 & 2

After mutual discussions it has been settled that the following workers shall be upgraded w.e.f. the dates mentioned against their names :—

Sr. No.	Name	Designation	Revised grade	w.e.f.
1	2	3	4	5
1.	M/s. Ikhlaq Ahmed	Turner II	Skilled 'D'	1.11.71
2.	Dev Raj	Fitter II	Do	1.11.71
3.	Krishan Lal	Welder I	Do 'A'	1.11.71
4.	Charanjit Singh	Turner II	Do 'B'	1.11.71
5.	Ram Gopal	Do	Do	1.11.71
6.	Som Nath	Do	Do	1.11.71
7.	Manohar Lal	Fitter	Do	1.11.71
8.	M/s Roshan Lal	Fitter II	Skilled 'B'	1-11-71
9.	Tilak Raj	Do	Do	1-11-71

1. That the cases of the remaining workers i. e.

- | | |
|-------------------------|--------|
| (i) Shri Chain Singh | Fitter |
| (ii) Shri Bindhiachal | Fitter |
| (iii) Shri Benarsi Dass | Turner |
| (iv) Shri Jagan Nath | Turner |
| (v) Shri Bahadur Singh | Fitter |

(vi) Shri Balak Ram	.. Wireman
(vii) Shri Anant Ram	.. Fitter
(viii) Shri Sri Ram	.. Welder
(ix) Shri Sawan Ram	.. Welder

are not pressed by the Union as they are already fitted in accordance with the 2nd Central Wage Board for the Sugar Industries, 1970, and, therefore, the claim in respect of them is settled and withdrawn.

Demand No. 3

2. Both the parties agree that SarvShri—

- (i) Surinder Singh &
- (ii) Sat Pal, Shaperman

are already employed on permanent basis and their cases require no further consideration and Sarvshri—

- (i) Dharoo Narain ;
- (ii) Ram Asrey ;
- (iii) Hori Lal; and
- (iv) Hardit Singh, Coolies

are seasonal workmen and not casual workmen and the demand in respect of them is withdrawn by the Union.

3. Both the parties agree that the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, be requested to give his award in the matter of reference No. 58 of 1971 in terms of this settlement.

(Sd.) (MANOHAR LAL,
President,
Saraswati Sugar Mills
Mazdoor Union (Regd.)
Yamunanagar.

(Sd.) (JAI KRISHANA,
General Manager,
Saraswati Sugar Mills,
Yamunanagar.

(Sd.) SAT PAL,
General Secretary,
Saraswati Sugar Mills
Mazdoor Union (Regd.),
Yamunanagar.

(Sd.) M. M. AHUJA,
Assistant Manager,
Saraswati Sugar Mills,
Yamunanagar.

(Sd.) MADAN LAL

Saraswati Sugar Mills,
Mazdoor Union (Regd.),
Yamunanagar.

(Sd.) BALDEV RAJ

Ditto

(Sd.) MOSSDI LAL

Ditto

887
Witnesses :

(i) (Sd.) . . . ,

(ii) (Sd.) . . . ,

Dated 30th April, 1973.

Copies to —

- (1) Conciliation Officer, Yamunanagar.
- (2) Labour Commissioner, Haryana, Chandigarh.
- (3) Secretary to the Govt. of Haryana, Labour Deptt. Chandigarh.
- (4) The Industrial Tribunal, Haryana, Faridabad.

(Sd.) MANOHAR LAL,

President,
Saraswati Sugar Mills
Mazdoor Union (Regd).
Yamunanagar.

(Sd.) JAI KRISHANA,

General Manager,
Saraswati Sugar Mills,
Yamunanagar.

(Sd.) SAT PAL,

General Secretary,
Saraswati Sugar Mills
Mazdoor Union (Regd.),
Yamunanagar.

(Sd.) M.M. AHUJA,

Assistant Manager,
Saraswati Sugar Mills,
Yamunanagar.

(Sd.) MOSSADI LAL

(Sd.) MADAN LAL

(Sd.) BALDEV RAJ

The 24th August, 1973

No. 8537-4Lab-73/30055.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of Messrs Kundan Talkies, Bahadurgarh.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 22 of 1973

between

SHRI JAGDISH LAL AND THE MANAGEMENT OF MESSRS KUNDAN TALKIES,
BAHADURGARH

Present—

Shri Rajinder Singh, for the workman.

Shri Om Parkash, for the management.

AWARD

Shri Jagdish Lal, concerned workman, was in the service of Messrs Kundan Talkies, Bahadurgarh. The management terminated his services with effect from 3rd October, 1972. He raised a demand for reinstatement but without any satisfactory response from the management. This gave rise to an industrial dispute.

By order No. ID/RK/217-A-72/10603-7, dated 14th March, 1973 of the Governor of Haryana, the dispute was referred for adjudication to this Court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

"Whether the termination of services of Shri Jagdish Lal was justified and in order ? If not, to what relief is he entitled ?".

Usual notices were given to the parties who have arrived at an amicable settlement. Their statements have been recorded. Shri Jagdish Lal concerned workman has received payment of Rs 150 from the management in full and final settlement of his dues giving up his right or reinstatement or re-employment.

In view of the above, no further proceedings are called for in the case and the award is made in terms of the settlement holding that the concerned workman is not entitled to any other relief. In the circumstances, there shall be no order as to cost.

Dated the 17th August, 1973.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 1959, dated the 20th August, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 8357-4Lab-73/30063.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Mahendra Industries, 14/6, Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 199 of 1972

between

SHRI MAHENDER PAL GIR AND THE MANAGEMENT OF M/S MAHENDRU INDUSTRIES,
14/6, MATHURA ROAD, FARIDABAD

Present :

Shri Roshan Lal for the workman.

Shri R. C. Sharma for the management.

AWARD

By order No. ID/FD/72/30482, dated 3rd August, 1972 of the Governor of Haryana, the following dispute between the management of M/s Mahendru Industries, 14/6, Mathura Road, Faridabad and its workman Shri Mahender Pal Gir was referred for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

"Whether the termination of services of Shri Mahender Pal Gir was justified and in order ? If not, to what relief is he entitled ?"

Usual notices were given to the parties. The management filed the written statement on the date fixed pleading that, as a matter of fact, this workman had settled his dispute and received payment of his dues on 10th April, 1972 and there was no dispute left between the parties calling for adjudication by this court. The workman has not filed any statement of claim or replication to dispute the above plea of the management. His authorised representative Shri Roshan Lal who had given the demand and notice leading to the present reference has stated that he has no instructions from the workman to proceed with the reference and dispute the plea of settlement raised by the management. Shri R. C. Sharma authorised representative of the management has proved the receipt Ex. M.1 showing payment of Rs 155 to the workman including Rs 55 equal to his wages for 15 days as *ex gratia* payment. He has further proved the application Ex. M. 2 addressed to this court by the workman admitting the aforesaid plea.

In view of the above, there is no dispute left between the parties and the award is made in terms of the settlement holding that the workman is entitled to no other relief. No order as to costs.

Dated 10th August, 1973.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1854, dated 13th August, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 8536-4Lab-73/30067.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s York India Ltd., Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 199 of 1971

Between

SHRI CHIRANJI LAL AND THE MANAGEMENT OF M/S YORK INDIA LTD., MATHURA ROAD, FARIDABAD

Present.—

Shri Chaman Lal, for the workmen.

Shri S. L. Gupta, for the management.

AWARD

Shri Chiranji Lal concerned workman was in the service of M/s York India Ltd., Mathura Road, Faridabad since 1st November, 1965, as a Assistant Painter at Rs 144 per mensem. His services were terminated with effect from 11th May, 1971. He raised a demand for reinstatement but without success. This gave rise to an industrial dispute. The matter was taken up for conciliation which ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, referred the dispute for adjudication to this court,—vide order No. ID/FD/134-C-71/31609-13, dated 26th October, 1971 in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act 1947, with the following term of reference :—

“Whether the termination of services of Shri Chiranji Lal was justified and in order ? If not, to what relief is he entitled ?”

Usual notices were given to the parties. The management took the plea that as a matter of fact the workman had over-stayed his leave without any proper authorisation and was deemed to have abandoned his service and, therefore, his name was struck off the rolls in accordance with the Standing Orders of the Company.

The following issues arose for determination in the case :—

- (1) Whether the workman has lost his lien on his service because he was absent from duty from 16th April, 1971 to 11th May, 1971 ?
- (2) Whether the termination of services of Shri Chiranji Lal was justified and in order ? If not, what relief is he entitled ?

The management has examined one witness Shri Aggarwal Labour Officer, M.W. 1, who has proved the leave application of the workman from 9th April, 1971 to 12th April, 1971 M.W. 1/1, copy of the letter, dated

26th April, 1971, Ex. M.W. 1/2 calling upon him to join his duty within 3 days A.D. receipt Ex. M.W. 1/3 showing delivery of the above letter to the workman on 8th May, 1971, notice, dated 11th May, 1971, Ex. M.W. 1/4 regarding termination of his services, copy of the Standing Orders Ex. M.W. 1/5.

Shri Chiranji Lal concerned workman has himself come into the witness-box and proved the letter dated 26th April, 1971, received by him on 8th May, 1971, Ex. M.W. 1/2, postal receipt Ex. W.W. 1/1, certificate of fitness, dated 12th May, 1971, Ex. W.W. 1/3. He has led no other evidence.

The case has been argued on both sides and I have very carefully considered the material on records. It is a common ground between the parties that this workman had been sanctioned leave from 9th April, 1971 to 12th April, 1971, and the following 3 days being holidays he was required to report for duty on 16th April, 1971. There is further no denying the fact that he did not report for duty on 16th April, 1971, but on 13th May, 1971. According to the Certified Standing Orders of the Company [clause 13(f)], a workman who absented himself from duty without leave for 8 consecutive days or more would be deemed to have left service of the Company and his employment would automatically stand terminated. If, however, he submitted an explanation to the satisfaction of the departmental head within 4 days thereafter his absence might be converted into leave without pay. If no explanation was submitted by the workman within the period specified he would not be excused even though his absence might be due to illness or some other reasons whatsoever.

In the case before me, the explanation of the workman is that he had been taken ill from 12th April, 1971 to 12th May, 1971 and for that reason he was compelled to remain absent from duty. But this plea has not been established in the case by any satisfactory evidence. I have been referred to a certificate of the village Panch to the above effect which has not been got exhibited in the statement of the workman himself what to speak of examining the said Panch. The fitness certificate dated 12th May, 1971 Ex. W.W. 1/3 of some Aushdharya at Allahabad does not disclose the nature of the illness nor its duration. It only says that on 12th May, 1971, he was fit to resume his duty. No medical certificate from any Doctor has been produced in the case to show that this workman had actually remained ill during the period in question from 12th April, 1971 to 12th May, 1971, and that being so it is difficult to hold that he had any valid excuse to remain absent from duty for this considerable period of one month or so. The management had written to him on 26th April, 1971 to report for duty within 3 days. That letter was no doubt received by him on 8th May, 1971, but he did not report for duty within the specified period of 3 days. Moreover, no reasonable explanation was given by him to the satisfaction of the departmental head within the period specified in the Standing Orders of the Company to justify his absence from duty.

So, taking into consideration all the facts and the circumstances of the case, I am quite clear in my mind that on account of his absence from duty for more than 8 days consecutively without any proper authorisation Shri Chiranji Lal the workman concerned was deemed to have abandoned his service which automatically stood terminated under clause 13(f) of the Certified Standing Orders of the Company and the management was perfectly justified in striking his name off the rolls. Issue No. 1 is accordingly held in favour of the management and against the workman.

In view of my above findings on Issue No. 1, the management could not be held responsible for the termination of services of this workman which, in fact, stood terminated by his own conduct and that being so he is not entitled to any relief by way of reinstatement or back wages. The award is made accordingly. No order as to costs.

Dated 17th August, 1973.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1958, dated 20th August, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana
Rohtak.

No. 8350-4 Lab-73/30069.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Refrigeration Accessories Ltd. 20/6, Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 212 of 1972

between

SHRI BHULE RAM AND THE MANAGEMENT OF M/s REFRIGERATION
ACCESSORIES LTD., 20/6, MATHURA ROAD, FARIDABAD

Present:

Shri Darshan Singh for the workman.

Shri D. C. Bhardwaj for the management.

AWARD

Shri Bhule Ram was in the service of M/s Refrigeration Accessories Ltd., 20/6, Mathura Road, Faridabad. He was dismissed from service by the management. He raised a dispute for reinstatement but without any satisfactory response. This gave rise to an industrial dispute.

On receipt of the failure report from the Conciliation, the Governor of Haryana referred the dispute for adjudication to this Court vide order No. ID/FD/72/32419-28, dated 23rd August, 1972, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference:—

“Whether the termination of services of Shri Bhule Ram was justified and in order If not, to what relief is he entitled?”

Usual notices were given to the parties. The management has taken the plea that as a matter of fact this workman has tendered his resignation on 17th August, 1972 Ex. M.1. and a sum of Rs. 101/66 had been paid to him in full and final settlement of his all claims vide receipt Ex. M. 2 and voucher Ex. M. 3. Shri Darshan Singh who represents the workman concerned has no instructions from him to proceed with the present reference in view of his resignation and payment of his full dues.

So taking into consideration the facts discussed above, I am satisfied that the workman concerned had voluntarily tendered his resignation and received his full dues from the management and as such he is not entitled to any other relief in the present reference. The award is made accordingly. There shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,

Labour Court, Haryana,

Rohtak.

Dated the 9th August, 1973.

No. 1851, dated 13th August, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,

Labour Court, Haryana,

Rohtak.

No. 8361-4Lab-73/30077.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding

Officer, Labour Court, Haryana, Rohtak. in respect of the dispute between the workmen and the management of M/s. Globe Steels, Ballabgarh :—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 74 of 1972

between

SHRI SURINDER KUMAR MALHOTRA AND THE MANAGEMENT OF M/S GLOBE STEELS,
BALLABGARH

Present :—

Shri H.R. Dua, for the management.
Nemo for the workman.

AWARD

Shri Surinder Kumar Malhotra was in the service of M/s Globe Steels, Ballabgarh, as a Stores Clerk. His services stood terminated with effect from 6th October, 1971. He raised a demand for reinstatement which was not accepted by the management. This gave rise to an industrial dispute.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the above dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference :—

“Whether the termination of services of Shri Surinder Kumar Malhotra was justified and in order ?
If not, to what relief is he entitled ?”

Usual notices were given to the parties. The management took the plea that, as a matter of fact, this workman himself tendered his resignation on 1st October, 1971 and the same had been accepted on 6th October, 1971 and as such no industrial dispute existed between the parties which could validly be referred for adjudication to this court. Shri Surinder Kumar Malhotra refuted the above plea of the management in his replication.

The pleadings of the parties gave rise to the following issues in the case :—

- (1) Whether Shri Surinder Kumar concerned workman had tendered his resignation on 1st October, 1971 and the same had been accepted by the management on 6th October, 1971 ? If so, with what effect ?
- (2) In case issue No. 1 is not proved whether the termination of services of Shri Surinder Kumar was justified and in order ? If not, to what relief is he entitled ?

The workman concerned has elected not to appear and pursue his claim. He is not represented by any union leader. Evidence of the management has been taken. Shri O. P. Gupta, Head Time Keeper, has made a statement on oath that the resignation, dated 1st October, 1971, Ex. M. 1, was submitted by this workman and the same was accepted by the management on 6th October, 1971, intimation whereof was given to him, vide letter Ex. M.2. There is apparently no reason to disbelieve the statement of Shri O. P. Gupta especially when the workman is not coming forward to pursue his claim and refute the above plea of his resignation taken by the management in the case.

The workman concerned having thus voluntarily submitted his resignation and the same having been accepted by the management, there was no industrial dispute between the parties which could validly be referred for adjudication. In the circumstances, the question of termination of his services by the management did not arise nor is the management called upon to justify the circumstances in which the workman had decided to tender his resignation. There is nothing on the record to indicate that the resignation had not been submitted voluntarily by him or that it had been obtained by the management under any undue influence.

For the reasons aforesaid, both the issues are decided in favour of the management and against the workman and he is not entitled to any relief by way of reinstatement or re-employment. It would not be out of place to mention here that the management had asked him through letter, Ex. M.2, to collect his dues but from the statement of M. W. 1, Shri O. P. Gupta, it is not clear whether he had actually collected the same. The management is, however, prepared to pay his dues, if any. The award is made accordingly. No order as to costs.

Dated the 8th August, 1973.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1858, dated 13th August, 1973.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.